

REMARKS

Status of Claims - Patented claims 1-12 remain pending, new claim 13 is cancelled, new claims 1-119 remain pending and claims 14, 17, 20, 23, 26-33, 44, 45, 78, 90, 91 and 101 are amended.

While applicant does not agree that recapture exists, each of the independent claims rejected for recapture have been amended as indicated below to overcome the basis for the recapture rejection under 35 U.S.C. 251.

Explanation of the support for changes to claims 14, 17, 20, 23, 26-33, 44-45, 78, 90-91 and 101

Claims 14, 17, 20, 32, 45, 78, 90 and 91 are amended by replacing “a positive air flow generator” with “a continuous air flow generator.” Support for this change is found in, for example, claim 1 of the ‘662 patent.

In claim 44 “wherein the pressure-compensation feedback system maintains the positive pressure at a predetermined value” has been amended to recite “wherein the pressure-compensation feedback system continuously maintains the positive pressure at a predetermined value. Support for this change is found in, for example, claim 1 and column 6, lines 1-9 (wherein air flow generator 16 and maintaining pressure are described) of the ‘662 patent.

In claim 101 “maintaining the positive air pressure” has been amended to recite “continuously maintaining the positive air pressure.” Support for this change is found in the ‘662 patent at, for example, claim 1 and column 6, lines 1-9 (wherein air flow generator 16 and maintaining pressure are described).

Dependent claims 23, 26-31 and 33 are amended to by replacing “a positive air flow generator” with “a continuous air flow generator.” Support for this change is found in, for example, claim 1 of the ‘662 patent.

The recapture rejection

In view of the above amendments adding the subject matter alleged as the basis for recapture it is, respectfully, submitted that claims 14--119 avoid rejection under 35 U.S.C. 251 for recapture.

The obvious double patenting rejection

Claims 1-119 are rejected for obvious double patenting over the claims of U.S. Patent No. 5,769,797. A terminal disclaimer (copy enclosed) was filed during prosecution of U.S. Patent No. 6,036,662 for which the present application seeks reissue. The terminal disclaimer continues to be effective such that the present obviousness double patenting rejection should be withdrawn.

Another terminal disclaimer will be filed upon citation of proper authority for requiring another terminal disclaimer.

The obviousness rejection

Claims 32-41, 44-89 and 91-119 are rejected under 35 U.S.C. 103(a) as unpatentable over Norton (U.S. Patent No. 3,878,839) in view of Hayek (U.S. Patent No. 4,930,498). Norton taken alone, or in combination with Hayek, does not teach or suggest a continuous air flow generator as recited in claims 32, 45, 78, and 91 or a pressure-compensation feedback system operably connected with the continuous air flow generator, wherein the pressure-compensation feedback system maintains a positive pressure at a predetermined value as recited in claim 44 or the step of continuously maintaining the positive air pressure as recited in claim 101. For at least this reason, claims 32-41, 44-89 and 91-119 avoid rejection over Norton and Hayek.

Conclusion

For all of the above reasons it is, respectfully, submitted that claims 1-12 and 14-119 avoid the rejections of record and are in condition for allowance.

The examiner is invited to call the undersigned attorney to discuss any outstanding issues or concerns so that allowance of the present application may be expedited.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 (7175/74108).

Respectfully submitted,

BARNES & THORNBURG



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Enclosures

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